

DISTRICT OF COLUMBIA
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ALCOHOLIC BEVERAGE CONTROL BOARD
+ + + + +
MEETING

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IN THE MATTER OF: :
 :
Rito Loco, LLC :
t/a Rito Loco-El Techo :
606 Florida Ave NW : Protest
Retailer CR - ANC 6E : Hearing (Status)
License No. 104119 :
Case #22-PRO-00072 :
 :
(Application to :
Renew the License) :
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Wednesday
November 09, 2022

The Alcoholic Beverage Control Board
met via WebEx videoconference, Chairperson
Donovan W. Anderson presiding.

PRESENT:
DONOVAN W. ANDERSON, Chairperson
BOBBY CATO, JR., Member
RAFI ALIYA CROCKETT, Member
EDWARD S. GRANDIS, Member
JENI HANSEN, Member
JAMES SHORT, JR., Member

ALSO PRESENT:

JOSE ORELLANA, DC ABRA Staff
SIDON YOHANNES, Applicant Counsel
ANTHONY BROWN, ANC 6E
LARRY HENDERHAN, ANC 1B
CRAIG KUJAWA, Protestant
RAMI BADAWEY, Protestant

P-R-O-C-E-E-D-I-N-G-S

11:05 a.m.

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2
3 CHAIRPERSON ANDERSON: Good morning
4 everyone. As chairperson of the ABRA Beverage
5 Control Board for the District of Columbia and in
6 accordance with D.C. Code Section 2571 of the
7 Open Meetings Act (OMA), I am welcoming you to
8 the regular scheduled meeting of the Alcohol and
9 Beverage Control Board.

10 This meeting is being conducted
11 pursuant to guidance made available by the
12 District of Columbia's Office of Open Government
13 regarding electronic meetings held by public
14 bodies. Electronic meetings by the ABC Board are
15 authorized pursuant to Section 2577A of the D.C.
16 code.

17 Pursuant to the only requirements,
18 notice of today's meeting was provided 48 hours
19 in advance of the meeting on ABRA's website and
20 on the District Central Meeting calendar. The
21 notice included the time, date, agenda, and call-
22 in or log-in information for public
23 participation.

24 This electronic meeting has been
25 hosted by a WebEx account provided by the

1 District of Columbia Government. Please address
2 any questions or complaints to the OAG at
3 OpenGovOffice@DC.gov.

4 My name is Donovan Anderson, I'm the
5 Chairman of the Board. I would like to introduce
6 the other members of the ABC Board who are also
7 participating electronically. Please respond
8 when I announce your name.

9 Mr. James Short. I can not hear you, Mr.
10 Short.

11 MEMBER SHORT: Mr. James Short
12 present.

13 CHAIRPERSON ANDERSON: Mr. Cato?

14 MEMBER CATO: Bobby Cato present.

15 CHAIRPERSON ANDERSON: Ms. Rafi
16 Crockett.

17 MEMBER CROCKETT: Rafi Crockett
18 present.

19 CHAIRPERSON ANDERSON: Jeni Hansen.

20 MEMBER HANSEN: Jeni Hansen present.

21 CHAIRPERSON ANDERSON: The board has
22 five members in attendance for the conduct of
23 business today, and that constitutes a quorum.

24 Before we get underway with today's
25 hearing calendar I need to make a few

1 instructions very clear so that the conduct of
2 these hearings is understood by everyone. There
3 are five cases scheduled for today. Once a case
4 is called I will take a moment for IT specialist
5 to elevate the rights for each party to enable
6 their camera and microphone. Then, and only
7 then, will you have the ability to enable your
8 equipment.

9 If your case is not being heard, you
10 will remain mute and your camera will be
11 disabled. At the conclusion of each case the
12 parties will have the option to leave. If the
13 party chooses to stay, all cameras and
14 microphones for the concluded case will be
15 disabled. Should you have any questions or
16 require technical assistance during the hearing,
17 please submit them using the question and answer
18 feature.

19 Our first case for the day is a
20 protest hearing status, Case #22-PRO-00072, Rito
21 Loco El Techo, License No. 104119.

22 Mr. Orellana, can you please elevate
23 the rights of the parties in this case, please.

24 MR. ORELLANA: Anthony Brown, your
25 access has been elevated. Craig Kujawa, your

1 access has been elevated. Larry Henderhan, your
2 access has been elevated. Rami Badawy, your
3 access has been elevated. And Sidon Yohannes,
4 your access has been elevated. That is all,
5 Chairman.

6 CHAIRPERSON ANDERSON: Thank you.
7 Good morning, let me start with the
8 representative of the licensee, Ms. Yohannes.
9 Good morning, can you please spell and state your
10 name for the record, please.

11 MS. YOHANNES: Good morning. Sidon
12 Yohannes here on on behalf of the licensee. S-I-
13 D-O-N, Y-O-H-A-N-N-E-S.

14 CHAIRPERSON ANDERSON: Good morning,
15 Ms. Yohannes. Is your client joining us this
16 morning?

17 MS. YOHANNES: No, he's not.

18 CHAIRPERSON ANDERSON: All right,
19 there are several protests in this group here, so
20 can we have, who is representing the ANC?

21 Mr. Brown, can you please identify
22 yourself for the record, please.

23 MR. BROWN: Good morning, Chairman and
24 Board Members. I'm Tony Brown, I'm a member of
25 the ABC committee for ANC 6E. I've been asked to

1 stand in for Commissioner Lopez 6002, who is
2 basically spearheading this event.

3 CHAIRPERSON ANDERSON: So you are here
4 representing ANC 6E?

5 MR. BROWN: Yes.

6 CHAIRPERSON ANDERSON: All right,
7 thank you, Mr. Brown.

8 Do we have a representative from ANC
9 1B?

10 MR. HENDERHAN: Yep. Hello, Chairman,
11 my name is Larry Henderhan. I'm the single
12 member district commissioner for ANC 1B01, which
13 is LeDroit Park. We are directly across the
14 street from this establishment and have a number
15 of neighbors who are impacted by this protest and
16 this establishment, and so I am here representing
17 1B.

18 CHAIRPERSON ANDERSON: All right. Who
19 is the designated representative for the group of
20 five or more?

21 MR. BADAWY: good morning, Mr.
22 Chairman and board members, my name is Rami
23 Badawy, R-A-M-I, B as in boy, A, D as in David,
24 A-W-Y, representing the group of five plus
25 protesters.

1 CHAIRPERSON ANDERSON: Good morning,
2 Mr. Badawy. Do we have someone representing the
3 abutting property owner, or the abutting property
4 owner here?

5 MR. KUJAWA: Yes, good morning, Mr.
6 Chairman, members of the board, I am the abutting
7 property owner protested. My name is Craig
8 Kujawa, spelled C-R-A-I-G, K-U-J-A-W-A.

9 CHAIRPERSON ANDERSON: Thank you, Mr.
10 Kujawa. Have all the parties introduced
11 themselves or did I miss anyone?

12 MS. YOHANNES: I believe that's all.

13 CHAIRPERSON ANDERSON: Thank you, Ms.
14 Yohannes. All right, good morning again,
15 everyone. Are there any preliminary matters in
16 this case?

17 MR. BROWN: Yes.

18 CHAIRPERSON ANDERSON: Yes? Go ahead.
19 I'm sorry, let me start with the applicant first,
20 Ms. Yohannes.

21 MS. YOHANNES: No preliminary matters
22 for the licensee.

23 CHAIRPERSON ANDERSON: Yes, Mr. Brown,
24 go ahead, sir.

25 MR. BROWN: Yes, I was basically

1 requested to ask that this hearing be postponed.
2 We have basically come to an agreement with the
3 ANC that they're going to secure legal counsel.
4 And the counsel will have to get up to par on all
5 the facts of the case. So that's my mission here
6 today. I don't know how it fits into the
7 process, but that's our request.

8 CHAIRPERSON ANDERSON: So Mr. Brown,
9 have you had this conversation with the
10 applicant? Have you had a previous conversation
11 with the applicant to see whether or not the
12 applicant supports a postponement, postponing
13 this matter?

14 MR. BROWN: I have not. I have just
15 been requested to appear today. That's the only
16 involvement I've had.

17 CHAIRPERSON ANDERSON: If we're going
18 to have -- I'm sorry, you want to say something,
19 Ms. Yohannes?

20 MS. YOHANNES: No, not at this time.
21 We need to talk to my clients and we can confer
22 after this hearing.

23 CHAIRPERSON ANDERSON: I know you're
24 making an oral motion, Mr. Brown. We have ANC
25 1D, we have the group of five or more, we have

1 the abutting property owner. All of those
2 parties would have to agree to if this matter is
3 going to be postponed. So I don't think that
4 your motion, at least at this juncture, is right
5 for the board to address.

6 MR. BROWN: Okay.

7 CHAIRPERSON ANDERSON: But what I
8 would direct you to do is, I'm sorry, who is the
9 representative for your ANC, sir? I know you're
10 sitting in.

11 MR. BROWN: Alex Lopez, Commissioner
12 ANC 6E 02. He's out of the country.

13 CHAIRPERSON ANDERSON: I would ask
14 that Mr. Lopez contact the licensee and contact
15 the other parties. If the parties can agree, if
16 the parties jointly come to the board and ask the
17 board to postpone the matter, of course the board
18 will consider it.

19 But this is a renewal. This is a
20 renewal, okay, so we will, whatever motion is
21 provided to the board, presented to the board, we
22 will consider it, but I would ask that you inform
23 Mr. Lopez to have a conversation with the other
24 parties and put a motion in writing if that's
25 what's being considered.

1 Any other preliminary matters in this
2 case by the other parties?

3 MR. BADAWEY: None from me, Your Honor,
4 and my protest group.

5 CHAIRPERSON ANDERSON: All right,
6 thank you, Mr. Badawy. And Mr. Kujawa?

7 MR. KUJAWA: No, Mr. Chairman, no
8 other preliminary matters from my party.

9 CHAIRPERSON ANDERSON: Thank you. Mr.
10 Henderhan? None for you?

11 MR. HENDERHAN: None from 1D.

12 CHAIRPERSON ANDERSON: All right,
13 thank you. This matter is scheduled for protest
14 hearing on December 7, 2022, at 1:30 p.m. If the
15 parties, any joint requests or requests to the
16 board to postpone this matter the board will
17 consider any written requests being made on
18 behalf of any of the parties.

19 One of the things I just want to just
20 highlight to the group of five or more, Mr.
21 Badawy, you're the representative for the group
22 of five or more; is that correct?

23 MR. BADAWEY: Yes.

24 CHAIRPERSON ANDERSON: And I'm not
25 saying this is going to happen, but it's just an

1 FYI, just to point it out to you. If there is a
2 settlement agreement -- this establishment, this
3 one I'm a little bit, I need to get some
4 clarification. This establishment is an ANC, is
5 it an ANC 6E or ANC 1D? I know that you're two
6 A's because one ANC is across, but which? I'm
7 sorry, it's located in what ANC?

8 MR. BADAWEY: 6E.

9 CHAIRPERSON ANDERSON: Okay, so it's
10 located in ANC 6E. So just informally, Mr.
11 Badawy, if there is a settlement agreement
12 reached between the ANC, then by matter of law
13 your protest would fall. I just want to let you
14 know that. And I'm not saying I'm not supporting
15 that, but I just wanted to let, just inform
16 groups of five or more, to state that if a
17 settlement is reached with the ANC and the
18 licensee, and if you're not a part of that
19 settlement, the board cannot force them to make
20 you a part of that settlement. And I've had
21 parties motion the board to say that our protest
22 should move forward because we were not a part of
23 the settlement agreement. But I just want to
24 advise, just group of five, the groups, that if
25 there's a settlement agreement that's reached

1 with the ANC, your protest would fall. Just as
2 an FYI. But in property, even if a settlement
3 agreement is reached between the ANC and
4 licensee, the abutting property owner, if they're
5 not a part of the settlement agreement, their
6 settlement would move forward. I'm sorry, the
7 protest hearing would move forward and I've not
8 faced this one before, but I believe that the
9 protest would move forward for ANC 1B if they
10 were not a part of that matter.

11 But it's just an FYI. I just want to
12 let the parties be aware of that because I've had
13 several occasions when the groups are reaching
14 back to the board, asking the board to take
15 certain measures that legally we aren't able to
16 take those measures. Okay? All right.

17 MR. KUJAWA: Yes, Mr. Chairperson,
18 thank you.

19 CHAIRPERSON ANDERSON: Thank you, all
20 right, thank you, sir. All right.

21 MR. KUJAWA: Mr. Chairman?

22 CHAIRPERSON ANDERSON: I'm sorry,
23 who's speaking? Please just identify yourself
24 for the record when you speak.

25 MR. KUJAWA: I will sir, this is Mr.

1 Kujawa. I just want to add one additional
2 wrinkle, is that while the licensee's
3 establishment is currently in ANC 6E, as a result
4 of redistricting, on January 1st it will actually
5 be in a different ANC, which is 2G 01, which as a
6 result of yesterday's election will, in fact, be
7 represented by Mr. Brown, who's currently on the
8 call.

9 CHAIRPERSON ANDERSON: That's put even
10 a different spin on this case because we're
11 having a protest by an ANC that no longer has
12 jurisdiction over this licensee.

13 MR. KUJAWA: If that's the case I just
14 wanted to bring it to the board's attention. And
15 in this scenario that might be an informing facet
16 of whether or not to continue the protest and the
17 number of weeks by which to continue it.

18 CHAIRPERSON ANDERSON: That's a
19 conversation, I think that the conversation will
20 -- that my assumption that the licensee needs to
21 consider and the implications. And I can't
22 direct the parties to what should or should not
23 be done, but it is good that you brought this to
24 the attention of the board, that there is a
25 jurisdictional issue. That, and the board can

1 raise jurisdictional issue itself at any point.
2 And I think that's something that the licensee's
3 attorney needs to also address. But as I stated
4 before, so it would make sense if this matter is
5 not settled, because I'm not sure if it would
6 make sense for us to have a protest here on
7 December 7th and one of the original protestant
8 no longer has jurisdiction over this licensee,
9 unless --

10 MR. KUJAWA: This is Mr. Kujawa again.
11 On December 7th again, the original protestants
12 still would have jurisdiction because the
13 jurisdictional change does not occur until Jan
14 1st.

15 CHAIRPERSON ANDERSON: But we would
16 not issue a decision. The board would issue, if
17 we have a protest here, the board is not going to
18 issue a decision until 60 to 90 days, so we're
19 talking about April. If we have a hearing in
20 December, the board will not issue a decision
21 until 90 days. So by the time we issue the
22 decision the ANC will no longer, the ANC that
23 brought, at least one of the ANCs that brought
24 this hearing will no longer have jurisdiction by
25 the time we issue our decision, whatever decision

1 that the board would have made if we were to have
2 this hearing on December 7th, that's all.

3 So yes, so you are correct that we
4 might have the hearing, that we will have the
5 hearing while ANC 6E still has jurisdiction, but
6 by the time the board issues its decision, that
7 ANC will no longer have jurisdiction over this
8 licensee. But that doesn't impact your hearing,
9 us moving forward with ANC 1B.

10 So Mr. Handerhan, so ANC 1B remains
11 across the street from this establishment?

12 MR. HANDERHAN: That's correct.

13 CHAIRPERSON ANDERSON: As of January
14 1st this is still ANC 1B?

15 MR. HANDERHAN: Yes.

16 CHAIRPERSON ANDERSON: Okay, fine.
17 Thank you. All right, but that's something I
18 would like the parties to consider. But whatever
19 motion that's brought before the board we will
20 consider it. You have something you wanted to
21 state, Ms. Yohannes?

22 MS. YOHANNES: No, I will just state,
23 as you said, that it's something that the board
24 will have to consider. And depending on how this
25 matter pans out in the next few weeks, whether

1 it's the licensee, or I'm sure one of the
2 protestants, will bring the appropriate motion
3 before the board.

4 CHAIRPERSON ANDERSON: Thank you. All
5 right, are the parties familiar with the
6 protesting hearing status, or do I need to read
7 instructions about how this process works moving
8 forward?

9 MS. YOHANNES: I think they're
10 familiar.

11 CHAIRPERSON ANDERSON: I think Mr.
12 Brown is shaking his head.

13 MR. BROWN: I'm not. Like I said, I'm
14 just a messenger.

15 CHAIRPERSON ANDERSON: Well Mr. Brown,
16 you sure bring, for a person who's just a
17 messenger, you bring a lot of news to the forum.

18 MR. BROWN: Well, you know, elections
19 were yesterday, so it happens.

20 CHAIRPERSON ANDERSON: All right, now
21 that we've scheduled this matter for a protest
22 hearing, there are a few things that I would like
23 to instruct you about because the board's
24 practices have changed. As you know, the board's
25 hearings are conducted virtually, so it's more

1 important than ever that protest hearings are
2 focused and addresses only those issues that are
3 being protested.

4 Following this hearing you will
5 receive an email from ABRA Legal that will
6 include a copy of a Protest Information Form, and
7 a copy of an Exhibit Form, as well as specific
8 instructions for the hearing. You are required
9 to complete and submit the PIF and Exhibit Forms
10 at least seven days before the date of the
11 hearing. If we do not receive a copy of your
12 forms several days before the hearing, your
13 application or your protest may be subject to
14 dismissal. These documents need to be submitted
15 to ABRA Legal and to the opposing parties.

16 Please know that these documents
17 greatly assist the board in narrowing the protest
18 issues, facilitating the process, and keeping the
19 parties on point during the hearing. Each side
20 is limited to no more than five witnesses, and
21 you will only have 60 minutes to present your
22 case. This includes all direct and cross-
23 examination. The board does not intend to hear
24 testimony on matters that are not relevant to
25 those issues that are being protested.

1 Now because this matter is also being
2 protested by four separate entities, if this
3 matter goes to a protest hearing, the board will
4 then ask that a designated representative be
5 identified to represent all four cases because
6 we're not going to have four separate cases
7 moving on. I'm making this pronouncement based
8 on it's within our regulation as the board is
9 empowered to require that one representative be
10 identified to represent the parties.

11 Typically what I do when we do have
12 one representative, I do allow the ANC to make an
13 opening statement or a closing statement if they
14 so desire. That's something I do allow., but I'm
15 just putting the parties on notice that if we go
16 to a hearing with these four protest groups that
17 I am going to require that one designated
18 representative be appointed to represent all four
19 protest groups, okay?

20 Do we have any questions?

21 MR. KUJAWA: Mr. Chairman, this is Mr.
22 Kujawa.

23 CHAIRPERSON ANDERSON: Yes, Mr.
24 Kujawa.

25 MR. KUJAWA: Is the seven days seven

1 calendar days or seven business days?

2 CHAIRPERSON ANDERSON: No, calendar
3 days. Seven calendar days before if we have the
4 hearing. So the hearing is scheduled currently
5 for December 7th, so seven calendar days before
6 the hearing, that has to be done, okay?

7 MR. KUJAWA: Thank you.

8 CHAIRPERSON ANDERSON: We thank you
9 greatly for your cooperation. If you have any
10 questions at any time during the hearing, please
11 do not hesitate to contact our legal office, and
12 we will provide any information at any time.

13 So Mr. Brown, if you're going to do
14 this, to understand our agency, we work with all
15 the parties. So whatever questions that any of
16 the parties have, please reach out to our legal
17 office and we will provide guidance how this
18 process works. Okay?

19 MR. BROWN: Thank you.

20 CHAIRPERSON ANDERSON: Good luck with
21 your negotiation if you have negotiations
22 scheduled, and the board will consider whatever
23 motion that's presented by each side, and good
24 luck. I always tell folks I hope not to see you
25 because if I don't see you again that tells me

1 that you have negotiated successfully and you no
2 longer require the board to make a determination.

3 Have a great day and everyone have a
4 great Thanksgiving if you celebrate Thanksgiving.

5 MR. KUJAWA: Thank you.

6 (Whereupon, the above-entitled matter
7 went off the record at 11:29 a.m.)

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In the matter of: Rito Loco-El Techo

Before: DC ABRA

Date: 11-09-22

Place: teleconference

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